Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0501		**Title:**	Tax credit for employer contributions to health savings account
Primary Sponsor:	MacLaren, Gary		**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☐ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$23,324	$32,848	$33,482	$34,131
Revenue:				
General Fund	($660,908)	($737,434)	($937,794)	($1,026,843)
Net Impact-General Fund Balance:	($684,232)	($770,282)	($971,276)	($1,060,974)

Description of fiscal impact: This bill would provide a credit against individual income tax or corporation license tax for half of an employer's contribution to an employee's health savings account or for half of a self-employed person's contribution to their own account, with a maximum credit of $600. This would reduce general fund revenue by $0.7 million beginning in FY 2010, with the revenue reduction increasing to $1.1 million by FY 2013.

FISCAL ANALYSIS

Assumptions:

1. A taxpayer whose only health insurance coverage has a deductible of at least $1,150 ($2,300 for family coverage) is allowed by federal law (26 USC 223) to have a health savings account (HSA). The taxpayer, the taxpayer's employer, or others may contribute to a taxpayer's HSA. Contributions up to a limit of $3,000 ($5,950 for a family) for 2009 are excluded from the taxpayer's adjusted gross income, and the limit is adjusted each year for inflation. As long as certain requirements to treat all employees equally are met, an employer is allowed to deduct contributions to an employee's HSA as employee health-care expenses. Current Montana law allows the same exclusion for individual taxpayers and deduction for employers.
2. This bill would allow employers to take a credit against individual income tax or corporation tax for 50% of the amount contributed to an employee's HSA, with a maximum credit of $600 per employee, provided

that the employer had not contributed to a health savings account in the previous two years. An employer could claim the credit for up to four years, and then would not be eligible to claim it again for 10 years. If the credit exceeded the employer's tax liability, the excess credit would not be refunded and could not be carried forward or backward to another tax year. A taxpayer claiming the credit would not be allowed to take an exclusion, deduction, or other credit for the contribution used for this credit. Self-employed persons would also be allowed to take the credit.

3. Deductions for health savings accounts have been recorded separately on income tax returns since 2005. The number of returns claiming the deduction was 1,793 for 2005. For 2006, it was 2,796, and for 2007, it was 3,989. This fiscal note assumes that, in FY 2010 through FY 2013, the number of households contributing to an HSA for the first time each year will be the average of new claims in 2006 and 2007, or 1,100.
4. Households with HSAs tend to have higher incomes and are more likely to have income from direct ownership of a business than households without health savings accounts. The following table shows information on the amount and types of income reported by households with and without HSA deductions for 2007:

Household Type	Average Income	Income from Direct Business Ownership	Wages & Salaries Income; no Business Income	Neither Wages & Salaries or Business Income
With HSA deduction	$126,486	60.70%	34.70%	4.60%
Without HSA deduction	$49,702	21.70%	66.60%	11.70%

- Households with HSAs and neither wage and salary income or business income are probably retired. They would have no employer to contribute to their HSA and claim the credit.
- Self-employed taxpayers with no employees would generally find it advantageous to claim the credit for the eligible portion of their HSA contributions.
- Even with partial employer funding, HSAs would still be attractive primarily to higher-income employees who have greater ability to set aside part of their income for future medical expenses. However, Sections 4980G and 125 of the IRS code establish rules against discrimination in favor of owners or highly compensated employees. Thus, employers would claim the credit only if they began making contributions to employees' HSAs as part of a benefit plan covering all employees.

For these reasons, this fiscal note assumes that the percentage of new HSAs for which a credit is claimed each year will be about equal to the percentage of HSA deductions taken by taxpayers with business income in 2007, or 60%. Thus, there will be 660 new taxpayers claiming the credit each year.

5. This bill would allow a credit for 50% of up to $1,200 in contributions to an employee's HSA. The average HSA deduction for 2001 was $3,108. Therefore, employers and self-employed individuals who take the credit can be expected to take the maximum credit.
6. Taxpayers may claim the credit for up to four years. Some taxpayers who claim the credit for one year and are still eligible the next year will not claim the credit the next year because of changes in circumstances. This fiscal note assumes that 80% of taxpayers who claim the credit each year and are eligible the next year will claim the credit the next year.
7. This credit would first be available for tax year 2009. This bill would go into effect part of the way through the year, but because the maximum credit is for less than half the average annual contribution, taxpayers would still be able to claim the full credit.
8. The following table shows the number and amount of credits that would be claimed for tax years 2009 through 2013:

Tax Year	New Credits	Repeat Credits	Total Credits	Amount of Credits
2009	660		660	$396,000
2010	660	528	1188	$712,800
2011	660	950	1610	$966,240
2012	660	1,288	1948	$1,168,992
2013	660	1,288	1948	$1,168,992

9. Taxpayers who claim the credit would have to reduce their HSA deductions by twice the amount of their credits. The average marginal tax rate for taxpayers who took HSA deductions for 2007 was 6.08%. Each year, reduced deductions will increase tax liability by 6.08% multiplied by twice the amount of credits for that year. The following table shows credits, the increase in tax liability due to smaller deductions, and the net revenue reduction for tax years 2009 through 2013.

Tax Year	Amount of Credits	Increased Tax From Lower Deductions	Net Tax Reduction
2009	$396,000	$48,154	$347,846
2010	$712,800	$86,676	$626,124
2011	$966,240	$117,495	$848,745
2012	$1,168,992	$142,149	$1,026,843
2013	$1,168,992	$142,149	$1,026,843

10. Taxpayers who will claim this credit are assumed to adjust their estimated payments to account for their reduced tax liability. Thus, the revenue reduction from the credits for a tax year will occur half in the same-numbered fiscal year and half in the next-higher-numbered fiscal year. However, FY 2009 will be over before taxpayers adjust their estimated payments, so that all of the revenue reduction for tax year 2009 will occur in FY 2010. The following table shows the allocation of revenue reductions from tax years to fiscal years:

Fiscal Year	TY 2009	TY 2010	TY 2011	TY 2012	TY 2013	Total
2010	$347,846	$313,062				$660,908
2011		$313,062	$424,373			$737,434
2012			$424,373	$513,421		$937,794
2013				$513,421	$513,421	$1,026,843

11. The Department of Revenue would need to develop a form for taxpayers to claim the credit and add two lines and corresponding instructions to the income and corporate tax returns. One-time form-development costs would be $2,000 in FY 2010. Changes to tax returns and instructions would be made as part of the annual update process.
12. The Department of Revenue would need an additional 0.5 FTE to process and verify the credit forms and audit credit claims. This position would be filled in January, 2010 as the first tax returns claiming the credit are being filed. Annual salary and benefits would be $25,352, and annual operating costs would be $7,496. One-time costs to set up a new employee in FY 2010 would be $4,900. An inflation factor is applied beginning FY 2012.

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
FTE	0.50	0.50	0.50	0.50
Expenditures:				
Personal Services	$12,676	$25,352	$25,986	$26,635
Operating Expenses	$5,748	$7,496	$7,496	$7,496
Equipment	$4,900	$0	$0	$0
TOTAL Expenditures	$23,324	$32,848	$33,482	$34,131
Funding of Expenditures:				
General Fund (01)	$23,324	$32,848	$33,482	$34,131
Revenues:				
General Fund (01)	($660,908)	($737,434)	($937,794)	($1,026,843)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($684,232)	($770,282)	($971,276)	($1,060,974)

Long-Term Impacts:

1. This credit would continue to reduce general fund revenue by about $1.1 million per year.

Sponsor's Initials *Date* *Budget Director's Initials* *Date*